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ABSTRACT

Of the 2 million children suspended from school each year, a disproportionate number are minority youth who, although they make up only 5 percent of the school population, comprise 40 percent of all suspensions and expulsions. The United States Supreme Court has issued several rulings to protect students from arbitrary and capricious imposition of penalties without due process of law. In its landmark ruling in "Goss v Lopez" (1975) the Court recognized students' rights to notification of charges against them; a hearing; and remaining in school until notification and a hearing, unless their presence was an immediate danger to life or property or was disrupting the educational process. Since then, however, the Court has moved to limit the scope of the Goss decision by creating an academic/disciplinary delineation and by refusing to assume the discretionary powers of school officials. The prospect of the Court providing further leadership to the lower courts at the present time seems remote. It is up to the schools to overcome what minority children see as an adversary relationship by formulating school disciplinary policies in terms that students understand. At the State level, safeguards must be built into a system where abuse of power can change the lives of children forever. (CMG)

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A LEGAL AND HISTORICAL PERSPECTIVE ON SUSPENSION AND ITS EFFECT ON INEQUALITY IN EDUCATION*

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> ...If a master teacher could organize and control hundreds of low-income children, (s)he was considered successful. The implication is clear that discipline was extremely militaristic. For example, recalcitrant students were left overnight in baskets hanging from the ceiling...It was assumed that harshness had to be characteristic in order for the master and his/her monitors to survive....[1]

Hanging students in baskets from the ceiling? An alternative to suspending students from school by suspending them in school -- literally? Cubberly (1919) was describing the Lancasterian-type school of the nineteenth century where this form of totalitarianism characterized the classrooms of that era. The prevailing attitude of the day concerning schooling for the children was one of a benevolent dictatorship being run for the good of society at large. It stressed conformity and stifled individual freedom. Rights were the privileges of adulthood to be conferred upon reaching one's majority.

Today's enlightened society has taken upon itself the task of not only educating its youth, but also conferring on them the status of "persons with rights." At least it pays lip service to this ideal. Modern schools no longer hang recalcitrant students from baskets in school, it is true. Indeed, a different form of "suspension" now places more than two million[2] of today's youth out into the streets to slowly twist in the ill wind of society. The suspended youth of today suffers no less than those who were hanged in those baskets so many years ago, but in a different vein. (S)he is slowly being forgotten to death by the very instrument of society that is his/her only salvation. Furthermore, and in increasingly unequal numbers, it is the minority youth who is hearing the message of the schools the loudest!

Social Milieu

The Children's Defense Fund (1975) conducted a poll of the nation's 2,400 largest school districts to survey the extent to which suspensions are used to discipline students in the public schools. The results show that while at least two million children are suspended nationally each year, only three percent of these really qualify as hardcore troublemakers who pose a serious threat to either property or individuals.[3] The other ninety-seven percent of the students were suspended for relatively minor offenses ranging from truancy and smoking to walking on the wrong side of the corridor and wetting one's pants.[4]

One effect of this wholesale suspension of students has been the disproportionate burden which it has placed upon minority youth. The National Advisory Committee on Black Higher Education and Black Universities and Colleges (1979) has reported that although minority students make up only five percent of the nation's school population, they comprise forty percent of all suspensions and expulsions.[5] In Cleveland, the Office on School Monitoring and Community Relations has issued a report (1980) which shows that Black junior high school students are suspended fifty-three percent of the time while the white suspension rate is only twenty-four percent. Thirty-six percent of the black high school student population in the same city is suspended as compared to only twenty percent of the white school population.[6]

The problem is a nationwide disgrace and is not just confined to one area of the country. In Pinellas County, Florida, the disparity between racial groups has become so extreme that the federal Office of Civil Rights has had to warn the school system that it may be reviewing the system's policies and records for possible violations of the student's civil rights.[7] While black students comprised only 17.6 of the total school population in

1978-79, they received 37.8% of the total school suspensions.[8] This has resulted in nearly three times as many suspensions of black students as white students.

Other disturbing reports concerning suspension of minority students indicate that not only are blacks normally suspended more often, but that these suspensions usually last for longer periods of time.[9] One concerned mother sees the problem as one with racial overtones:

> Our black kids get multiple suspensions more than the white kids, and that puts them on the streets. If a child misinterprets the rules or perceives them to be unfair, violates them and is punished, you've just about killed all incentive in the child to obey the rules. Those in authority are wrong to use suspensions rather than accepting the challenge to motivate the child to better understanding the rules so that (s)he can benefit from them.[10]

Emmanuel Stewart, a black administrator with the Pinellas County Schools who specializes in disciplining students, sees the matter as more of a disparity with relation to class rather than race. He believes that an examination of suspension cases as grouped by socioeconomic class rather than race would show little difference between black and white students. He believes that the lower-class students have "chips" on their shoulders or at least "the need to strike back over perceived denials" which the majority of the upper-class whites who attend the schools do not.[11] Notwithstanding this "explanation", the St. Petersburg chapter of the National Association for the Advancement of Colored People (NAACP) has filed a federal lawsuit alleging "racially discriminatory disciplinary policies."[12]

To further complicate the matter, there is strong evidence to suggest that the use of suspensions to remove the most troublesome students from school is having less than desirable effects both inside and outside the school environment. Even placing the most troublesome students in alternative

programs has proven less than satisfactory for many school systems because they have only found that new students have arisen with new problems to take their places.[13] Passing the problems onto the street has not solved the basic problem within the educational system.

Nor does suspension achieve its alleged goal of getting the suspended child's parents back into the school to help solve the child's problems. The Children's Defense Fund survey revealed that thirty-three percent of all suspended students were readmitted to classes without their parents ever being involved in a reinstatement hearing.[14] Such children frequently are repeat offenders who are setting the pattern for the rest of their lives by their actions. Stigmatized by their school records, they face an uncertain future with employers and the police who will review the records of these "losers" who will never catch up on their lost schooling or their lost opportunities.

Foundations of Educational Law

One of the few barriers to a society that seems so determined to rid its schools of "losers", whether for noble, racist, or elitist ends have been the courts. Since recognizing the doctrine that students do not leave their rights at the school house gate,[15] the United States Supreme Court has labored long and hard to protect students from arbitrary and capricious imposition of penalties without due process of law.

The Fourteenth Amendment to the United States Constitution clearly states that "no person shall be deprived of life, liberty, or property without due process of law." The procedural due process requirement of this Amendment as it is now interpreted can be satisfied if three basic elements are present:

1. The individual must first be given notice that (s)he is about to be deprived of life, liberty, or property,
2. (S)he must be afforded the opportunity to be heard, and
3. The hearing must be conducted fairly.[16]

The right of a person to be heard, at least in a trial proceeding, has precedent in Supreme Court decisions dating back to the 1908 case of Londoner v. Denver.[17] However, the matter of informal hearings involving suspension of students, prior to 1975, was one of conflicting state laws and mixed decisions that varied widely even in the federal circuits.

One of the early landmark cases which helped to define procedural due process in student expulsions cases was Dixon v. Alabama State Board of Education.[18] The case involved the expulsion of several students for attending demonstrations located at a luncheon grill and other places in and around the Alabama State College campus. The students were never afforded an opportunity to present their defense at any type of hearing prior to expulsion. A lower court decision that no such hearing was required was overturned by the United States Court of Appeals which held that, absent considerations of immediate danger to the public or peril to the national security, the actions of any government body to injure an individual should be consistent with the doctrine of due process of law.

In elaborating on the doctrine of procedural due process, the court held that the students were entitled to the names of any witnesses against them and a report, either oral or written, as to their testimony. Further, the students should be allowed to present their own testimony and witnesses in their own defense. The ruling of the lower court upholding the suspensions was reversed.

Great confusion, however, was apparent prior to 1975 in the area of

short-term suspensions. Various circuits disagreed as to whether the Due Process Clause of the Fourteenth Amendment would or would not apply to suspensions as short as one day or to those extending until the end of the current school year.[19] Finally, the 1975 ruling in Goss v. Lopez,[20] affecting students suspended from school nearly four years earlier, finally cleared the air and set down a landmark ruling against which all subsequent suspension cases would be measured.

The case dates back to 1971 when, during Black History Week, some 75 Columbus, Ohio, students were suspended during disturbances involving speakers at school assemblies. None of the students were ever given a hearing, and many were never even made aware of the reason why they were suspended. Among those suspended were Dwight Lopez and Betty Crome who, with seven others, decided to file a class action suit in federal court seeking an injunction against the actions of the school board and Ohio statute allowing suspension of students up to ten days without either prior notice or a hearing. The lower court in granting the injunction held that the school board had violated the rights of the students under the Equal Protection Clause of the Fourteenth Amendment.

The United States Supreme Court, in upholding the lower court's ruling, went on to elaborate upon the rights involved in the decision. The court declared that even though the right to an education is not a fundamental right under the United States Constitution, the State of Ohio had created a property right for its people by extending the right of an education to them. As such, that right cannot be denied to them on the grounds of misconduct without observing the minimal procedures required by the Due Process Clause of the Fourteenth Amendment.

The United States Supreme Court explained further that the affording of minimal due process did not necessitate the elaborate formal implementing of guarantees such as the right to counsel, confrontation and cross-examination of witnesses, or the need to produce witnesses for the defense.[21] The court did not wish to burden school systems with costly procedural mechanisms which would destroy the effectiveness of the suspension as a disciplinary tool in the educational process.

In effect, the following rules affecting short-term suspensions of less than ten days in duration were now to be imposed in all disciplinary proceedings of this nature:

1. The student was to be informed, either orally or in writing, of the nature of the charges brought against him/her,

2. If the charges were denied by the student, the student was to be afforded an opportunity to tell his/her side of the story, and

3. The notification of charges and the hearing should proceed the student's removal from school unless his/her continued presence constituted an immediate danger to persons or property or if the individual's presence was disrupting the educational process. In this event, the notification and hearing should be held as soon as was practical.[22]

The minority, in this 5-4 decision, felt that the introduction of formalities in disciplining students would probably have the tendency of destroying the reality of the normal pupil-teacher relationship which is rarely adversary in nature. The minority further felt that to formalize procedures for the imposition of sanctions against immature children by a school system was inviting a challenge to its own authority.[23] They felt that the time required for these hearings would leave little time for anything else.

At worst, the minority forecasted that the Court would not be entering a new "thicket" of cases involving psychological deprivations, real or imagined,

which might involve considerations such as the non-promotion of students, the receiving of a failing grade, placement in the wrong educational track, or other considerations where the danger of stigmatization might occur. All of these cases might occasion consideration of whether due process must be afforded. Whether the Court would be ready for its new role in society and the schools was of major concern to them.[24]

Fundamental Concern

The extent of the new thicket forecast in Goss has been made apparent in subsequent litigation involving what Mass (1980)[25] has termed the academic-disciplinary dichotomy. Lower courts, even in the wake of Goss, have always been reluctant to impose their decision-making in place of those administrators or teachers in academic matters unless there is direct evidence that school officials have acted "arbitrarily, capriciously, or in bad faith."[26] In these academic matters, the lower courts still recognize "a clear dichotomy between a student's due process rights in disciplinary dismissals and in academic dismissals."[27]

In the case of Board of Curators of the University of Missouri v. Horowitz[28] the United States Supreme Court finally addressed this apparent dichotomy. The case involved a student in her final year at the University of Missouri-Kansas City Medical School who was dismissed "for failure to meet academic standards."[29] Specifically, the student, Charlotte Horowitz, was told that her dismissal was for erratic attendance, poor personal hygiene, unsatisfactory clinical skills, and major deficiencies in her relationships with others.[30] Horowitz was given prior notice of her deficiencies and was evaluated in her performance by two separate committees and by the Dean. She received all negative recommendations. Then followed a set of oral and

practical examinations by seven physicians of whom five recommended against graduation.

What made the case of particular interest was the fact that it did not easily fit any clear definition of whether her dismissal was purely an academic question or one of disciplinary action. The university claimed that it was based upon her performance and relationship to people. Horowitz brought suit claiming violation of her Fourteenth Amendment right to adequate procedural due process prior to her dismissal.

In finding for the university, the U.S. Supreme Court was unanimous in its agreement that the procedures which the university employed afforded the "process that was due" and was consistent with that required by the Fourteenth Amendment. What is interesting is the finding that since the dismissal bore the label of "academic" rather than "disciplinary," the procedural requirements which would apply to it would be "far less stringent"[32] when dealing with an "academic suspension." Mass[33] feels that the Court has now very clearly moved into a "new majority" mode intent on limiting the scope of Goss by creating an "academic/disciplinary delineation."

One interesting recent case in which Goss has been applied to drug-related suspensions was Boynton v. Casey.[34] The plaintiff, Ralph Boynton, while a public school student, was subjected to questioning on December 11, 1979, by the school's principal and vice-principal concerning the use of marijuana on the premises. During the questioning period, which lasted for more than one hour, Boynton admitted to the use of marijuana on school property and was suspended. At two subsequent expulsion hearings, the plaintiff and his parents informed the School Committee that they were participating in certain "substance abuse" programs and had done so since the time of the suspension.

On both occasions the School Committee voted to expel Boynton without citing a specific reason. On January 31, 1980, Boynton was readmitted, but placed on school probation.[35]

Boynton and his parents sued the school system on four counts alleging that I) during the initial questioning Boynton was not informed of his right to have his parents present during questioning and his right against self-incrimination; II) the School Committee's actions in expelling him were intended to violate Boynton's constitutional rights; III) the Committee exercised an "arbitrary and improper" use of discretionary power given to it by the following regulation (reproduced here in part):

> Superintending school committees and school directors shall perform the following duties:
>
> 5. Scholars expelled. Expel any obstinately disobedient and disorderly scholar, after proper investigation of his behavior, if found necessary for the peace and usefulness of the school; and restore him on satisfactory evidence of his repentance and amendment. The school committee may authorize the principal to suspend students up to a maximum of ten days for infractions of school rules.[36]

and IV) the student was placed on school probation without notice or opportunity to be heard. The defendants countered with a motion to dismiss by claiming that the first three charges fail to state a claim upon which relief could be granted and that the fourth was moot in that the plaintiff had been readmitted to school.[37]

The court examined the merit of each claim and found much confusion in the plaintiff's claim of denial of due process under the Goss guidelines. The court held that the plaintiff never denied receiving notification of the charges against him, nor is it alleged that during the hour's questioning he did not have the opportunity to tell his side of the story. What the defendant seems to claim was that the school officials might not question him in order to obtain an admission of misconduct and then use that admission to immediately

suspend him. The court felt that the guarantees extended by Goss apply only to preventing Boynton's immediate removal without notice or opportunity to be heard. The court held that the plaintiff's contention in count I is not supported by Goss in this instance.[38]

Furthermore, the court could find no precedent for the need to have the parents present during this type of questioning. The court held that the Miranda rule,[39] which the plaintiff claims was violated when the defendants did not advise him of his right to remain silent, did not apply in this situation because it involved a private interrogation consistent with the holding in United States v. Parr-Pla.[40]

In the matter of count III alleging a violation of the plaintiff's constitutional rights at the expulsion hearings, the court found that the plaintiff never specified exactly what constitutional right was being violated by these proceedings. The court assumed either that an alleged violation of Wood v. Strickland[41] was implied or that the plaintiff was claiming a violation under state law. The court felt that the statute in question does not require the School Committee to consider participation in a "substance abuse" program satisfactory evidence of "repentance and amendment."[42] If the claim is made as a violation of Wood v. Strickland, then the plaintiff is asking the court to determine whether the School Committee abused its discretionary powers. The court cited the recent case of Board of Education of Rogers, Arkansas v. McCluskey,[43] which reiterated the decision in Wood, in holding that the court does not have the right to relitigate evidentiary questions arising in school disciplinary proceedings. The court would not assume the discretionary powers of school officials.

Finally, count IV, concerning the placing of the plaintiff on school probation, and which allegedly deprived the plaintiff of a property interest

protected under the Due Process Clause of the Fourteenth Amendment, was held to be likewise vague as to what property interest had been violated. The plaintiff never specified what the consequences of being placed on school probation were. The court stated that Goss clearly recognizes that the entitlement to an education is a property right protected by the Due Process Clause of the Fourteenth Amendment, but that the Clause does not encompass every facet of the educational program. Certainly the imposition of a school probation was clearly better than the more severe consequences brought about by suspension or expulsion. The court cited an earlier 1981 ruling in Petrey v. Flaugher[44] which held that expulsion for the balance of the school year for the use of marijuana was not unconstitutionally severe.[45]

The court, in dismissing the case, cited that the complaint lacked specific factual allegations and further failed to state a specific federal constitutional claim upon which relief could be granted. The court expressed its disapproval of such "uninformative pleadings" as these "which are even under liberal notice standards, on the very margin of that which is tolerable."[46]

The case of Carey v. Piphus[47] further narrows the scope of Goss and the guarantees of procedural due process. The case was brought under 42 U.S.C. § 1983 by one Jarius Piphus, who was a freshman attending Chicago Vocational High School during the 1973-74 academic year. Piphus and another student were observed by the principal during school hours on January 23, 1974, passing an irregularly-shaped cigarette back and forth. Upon approaching the students, the principal claims to have detected the smell of what he believed to be burning marijuana. The students threw the cigarette into a nearby hedge as soon as they detected the principal's presence.

The principal took the students back to the disciplinary office and

directed the assistant principal to impose the "usual" 20-day suspensions for violation of the school rule against the use of drugs. Piphus and the other student protested that they had not been using marijuana, but the suspensions were imposed nonetheless. Piphus had to remain at school for the remainder of the day as the assistant principal was unable to contact the child's mother.

A suspension notice was sent to Piphus' mother and two meetings were arranged to explain the reasons for his suspension. The meetings did not touch upon the subject of whether Piphus had, indeed, been smoking marijuana. Piphus and his mother filed suit in federal court under 42 U.S.C. § 1983 alleging that Piphus had been suspended without due process of law in violation of the Fourteenth Amendment. Declaratory and injunctive relief was sought, along with actual and punitive damages in the amount of $3,000.00.

This case was consolidated with another case involving a sixth-grade student, Silas Brisco, who was a student at the Clara Barton Elementary School in Chicago in 1973-74. On September 11, 1973, Brisco came to school wearing a small earring in violation of a rule made by the principal the previous year against boys wearing earrings in school. The principal claimed that the earring denoted membership in certain street gangs and claimed that the ban on earrings was necessary to insure that gang members would not terrorize other students. Brisco responded, after being reminded of the rule, that the earring was a symbol of black pride and not gang membership.

The child was suspended for a period of twenty days after the assistant principal spoke to the child's mother, and the mother supported her son's stand. Action was brought under 42 U.S.C. § 1983 alleging that Brisco had been suspended without being afforded due process of the law in violation

of the Fourteenth Amendment.

The District Court ruled in favor of the plaintiffs and agreed that they had been suspended without procedural due process of law. The school system was also held liable for damages and was not protected under the provisions of Wood v. Strickland because they "should have known that a lengthy suspension without any adjudicative hearing of any type would violate procedural due process".[48] Still, the District Court declined to award damages, citing lack of evidence as to the extent of their injuries. The Court agreed that the students should be granted declaratory relief, but then failed to enter an order to that effect. Instead, it dismissed the compalints. The case then went on appeal to the Court of Appeals.

The Court of Appeals reversed the lower court's ruling and remanded the case.[49] The Court of Appeals held that the lower court had erred in not granting the relief and in not considering evidence submitted by respondents after the judgment which tended to prove the pecuniary value of each day missed. The school system would not have to pay punitive damages if it could be shown that the students would have been suspended anyway if a proper hearing had been held; but, the system would have to pay substantial nonpunitive damages simply because it had denied to the students procedural due process. The case was granted certiorari to the U.S. Supreme Court for consideration as to whether a plaintiff, under 42 U.S.C. § 1983, must show proof of injury by deprivation before recovering substantial non-punitive damages.

In this case, it was the contention of the respondents that damages should be awarded in light of a deprivation of a constitutional right regardless of whether or not an actual injury had resulted from the deprivation. This would be justified because 1) a constitutional right is, in and of itself,

valuable; and 2) it would discourage violators of constitutional rights. Also, respondents claimed that any violation of procedural due process may be presumed to cause some injury.[50]

In its ruling, the U.S. Supreme Court recognized that common-law courts have traditionally vindicated the deprivation of certain "absolute rights" through the awarding of a nominal sum of money, absent proof of actual injury. The awarding of a nominal sum, the court felt, recognized the importance to society at large that rights must be scrupulously observed; while at the same time it remains true to the principle that substantial damages should only be awarded to compensate for actual injury or "to deter or punish a malicious deprivation of rights".[51]

The Court remanded the decision to the District Court and reversed the decision of the Court of Appeals. The instructions to the lower court were to first determine if the suspensions were justified. If this determination is made against the respondents, the respondents would still be entitled to recover nominal damages not to exceed one dollar!

Implications for Educators

The Goss Principle as a safeguard to prevent the imposition of suspensions without affording procedural due process seems to be slowly eroding as its focus narrows and its beacon dims. The U.S. Supreme Court has found its way out of the "thicket" of social problems and has again left decision-making in the hands of school administrators.

What lies ahead in the way of judicial guidelines from the Supreme Court which school administrators can expect to use to help them out of their own "thickets"? Thomas Flygare[52] finds the prospect of the Supreme Court providing any clear leadership to the lower courts at present on educational issues very remote. He sees basically sharp disagreement among the Justices

and no one to assume leadership.

Daniel Duke[53] forecasts only five policy-making options open to school administrators to cope with the increasing problems of school discipline in the 1980's,

1. More rules and harsher punishments,
2. More teacher training,
3. Easier suspension,
4. Increased campus security, and
5. Juvenile justice revisions.

Unfortunately, Professor Duke points out that each option is based upon erroneous assumptions about school and how to handle discipline problems. Each alternative assumes agreement on what needs to be done and how to begin to go about doing it.

As to our concerns with suspensions taking item three of Duke's alternative options to the extreme conjures up several other options which will have to be exercised immediately. Duke foresees an almost immediate push to lower the school-leaving age so that the schools will find it easier to pass on its problems and place them on the shoulders of society at large. We would further add to this list the need to hire more personnel to help with the increased paperwork unless there is a simultaneous push at both the state and national level to make it easier to expel children and thus eliminate the mountains of paperwork that wholesale suspensions would generate. This bleak forecase of extremes, we are confident, will never happen as long as viable options to those forecast by Duke are still within our design.

Summary Recommendations

Discouraged minority students are continuing to get the wrong message in school each day as they enter the buildings: "The School and I are

adversaries and there's nothing that I can do about it". Breaking this attitude must be our first line of attack in breaking the barriers of failure. The child's self-image as a loser is only reinforced by suspending him/her from the one real hope that (s)he has in the world. Certain groups like Operation PUSH (People United to Save Humanity) utilize the psychological principle of developing in the child a positive self-concept and a desire to succeed. This is accomplished, at first, through simple group recitation of phrases such as "I am Somebody!" More importantly, it is done enthusiastically so that the child becomes involved in the process. Traditionally, the child has been merely a passive element: a mere watcher of a film which parades life in front of him and tells him that when he grows up, and if he is good, and if he really studies hard, he will be somebody someday. But, the youth of today aren't lining up at the box office to see that "turkey" anymore. They need success now!

The schools need to begin formulating their disciplinary policies in terms that students can understand. The policies must be stated in positive terms, not a constant barrage of what a student cannot do. Those who experience trouble should be forced to become involved in their own rehabilitation. Disciplinary problems, it is finally being realized, are only symptomatic of larger problems which the child is having with school, learning, or the home. Let the child in on the secret too and work with him/her to understand what (s)he can do about his/her own deficiencies. Let us encourage the development of alternative suspension centers within buildings where kids can work out their own problems instead of in the streets. And let us staff the centers adequately with enough people who care and who are qualified to help and not just with those teachers who happen to be assigned there for duty.

At the state level we must push to reform our disciplinary codes. More, not less, safeguards need to be built into a system like ours where abuse of power can change lives forever. We must also push for adequate funding for our alternative suspension programs so that more kids stay in school longer. The jobs as box boy or soda jerk have long since been taken over by adults who cannot find a place elsewhere in our technological society.

Someday, all of our students will enjoy many of the same rights and constitutional protections as adults now do in the non-school world. Until that day when the status of student becomes a semisuspect classification,[54] we will have to set a positive example for the students to follow: one that shows them the torch symbolizing the positive aspects of life and not the flickering match of their own discouragement.

End Notes

[1]Cubberly (1919) as quoted in Paul Travers, "An Historic View of School Discipline," Educational Horizons, Vol. 58, 4 (Summer, 1980), p. 185.

[2]Geraldine Carro, "How Over 2 Million Children Were Kicked Out of School," Ladies Home Journal, Vol. 92, 56 (May, 1975), p. 56.

[3]Id.

[4]Id.

[5]Robert Green, Margaret Parsons, and Frances Thomas, "Desegregation: The Unfinished Agenda," Educational Leadership, Vol. 38, 4 (January, 1981), p. 283.

[6]Id.

[7]Roger Clendening, "School Suspension: Race or Class?," Black Enterprise, Vol. 10, 61 (June, 1980), p. 61.

[8]Id.

[9]Green, Parsons, and Thomas, p. 283.

[10]Clendening, p. 61.

[11]Id.

[12]Id.

[13]Daniel Duke, "School Disciplinary Policy in the 1980's," The Education Digest, Vol. 46, 6 (February, 1981) p. 7.

[14]Thomas Cottle, "A Case of Suspension," The Education Digest, Vol. 41 (January, 1976), p. 15.

[15]Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

[16]Kern Alexander, Ray Corns, and Walter McCann, Public School Law, St. Paul, Minnesota, West Publishing Company, 1979, p. 540.

[17]210 U.S. 373 (1908).

[18]294 F2d 150 (1961), cert. den. 368 U.S. 930.

[19]For an indication of the diveristy of such rulings, see Richard E. Fields, J. John Harris III, and A. Reynaldo Contreras, "A Legal-Historical Examination of Student Discipline: Alternative Trends for Educational Policy." In Student Discipline: Theoretical, Legal, Empirical, and

Educational Perspectives, J. John Harris III and Christine Bennett, Bloomington, Indiana University, 1982.

[20]419 U.S. 565 (1975).

[21]Id., at 583.

[22]Id., at 577-584.

[23]Id., at 593.

[24]Id., at 598-599.

[25]Michael A. Mass, "Due Process Rights of Students: Limitations on Goss v. Lopez -- A Retreat Out of the Thicket," Journal of Law and Education, Vol. 9 (October, 1980), pp. 449-462.

[26]Connelly v. University of Vermont, 244 F.Supp. 156 (1965) at 161.

[27]Mahavongsanan v. Hall, 529 F2d 448 (1976) at 449-450.

[28]435 U.S. 78 (1978).

[29]Id., at 79.

[30]Id., at 98.

[31]Id., at 86, n.10.

[32]Id., at 96.

[33]Mass, p. 453.

[34]543 F.Supp. 995 (1982).

[35]Id., at 996.

[36]20 M.R.S.A. § 473(5) (1964) (1975 Amendment).

[37]Boynton v. Casey, supra at 996.

[38]Id., at 998.

[39]Miranda v. Arizona, 384 U.S. 436 (1966).

[40]549 F2d 660 (1977).

[41]420 U.S. 303 (1975).

[42]Boyton v. Casey, supra at 1000.

[43] ____ U.S. ____, 102 S. Ct. 3469, 73 L.Ed.2d 1273 (1982).

[44] 505 F. Supp. 1087 (1981).

[45] Boynton v. Casey, supra at 1002.

[46] DiPerri v. Federal Aviation Administration, 671 F2d 54 at 59, n. 4 (1982).

[47] 435 U.S. 248 (1978).

[48] Id., at 251.

[49] 545 F2d 30 (1976).

[50] Carey v. Piphus, supra at 254.

[51] Id., at 266.

[52] Thomas Flygare, "Minor School Discipline Case Reveals Sharp Disagreements on Supreme Court," Phi Delta Kappan, Vol. 64, 4 (December, 1982), pp. 282-83.

[53] Duke, pp. 6-7.

[54] Leon Letwin, "After Goss v. Lopez: Student Status as Suspect Classification?," Stanford Law Review, 29 (April, 1977), p. 661.

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